

Approved: July 10, 2002

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL AND REDEVELOPMENT AGENCY
SPECIAL MEETING
MINUTES - JUNE 19, 2002**

CALL TO ORDER

Mayor Pro Temp Carr called the meeting to order at 7:07 p.m.

ROLL CALL ATTENDANCE

Present: Mayor Pro Temp/Agency Member Carr, Council/ Agency Members Chang, Tate
Arriving Late: Mayor/Chairperson Kennedy, arrived at 8:45 p.m.
Absent: Council/Agency Member Sellers

DECLARATION OF POSTING OF AGENDA

Office Assistant II Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Carr invited the President of the Board of Directors of the Chamber of Commerce, Alex Kennett, to lead the pledge of allegiance.

CITY COUNCIL REPORT

Mayor Kennedy arrived late, and was not present to give his report.

CITY MANAGER'S REPORT

City Manager/Agency Director Tewes presented his report to the Council.

He reported on the All American Cities Conference he attended last week with Mayor Kennedy, where they saw 30 different communities make presentations on how they addressed the important issues in their communities. He noted that there was not just government involvement, but community involvement as well. He stated that they had gained an appreciation of the amount of work to put the program together, and the work and expense of putting the application together. He plans to report later to the Council on how to proceed along those lines.

CITY ATTORNEY'S REPORT

City Attorney/Agency Counsel Leichter stated there was no report.

OTHER REPORTS

Mayor Pro Tem Carr gave the report from the Finance & Audit Committee and stated that they had discussed the budget coming before the Council next week. Finance and Audit Committee will make specific recommendations to the Council next week during the Budget hearing.

1) INFORMATIONAL REPORT ON CABLE TELEVISION PRICING PACKAGES

City Manager Tewes explained the arrangement the City of Morgan Hill has with Charter Cable. He also stated that the City has less ability to regulate the franchise than in the past due to changes in the Federal law. He stated that Mr. McGough has been invited here to explain the recent changes in the channel lineup and package pricing in response to the Council request for this information so they can better respond to their constituents on this issue.

Mr. McGough reviewed the service of the cable company in Morgan Hill, reporting that there are currently 7100 customers in Morgan Hill, and 1100 subscribers to high speed internet services. He explained that during the rebuild there were new services added and launched, with different levels of service established. The Basic Package provided 28 channels, and Expanded Service would add up to 50 additional channels to the basic number. He reported that after the rebuild, they noticed that the numbers of subscribers requesting expanded services was lower than it should have been. When they investigated, they discovered that on some homes there was a filter missing that allowed those homes to receive expanded channel service without being signed up for that expanded service. Charter notified the City, and notified the customers involved offering them the opportunity to purchase the expanded service if they wished to do so, or to stay at the basic service level. They also knocked on every door and offered again. They left door hangers letting them know the filters had been installed, and the service had been changed. He stated that they had tried very hard to let every single homeowner receiving the extra service know what was going to happen, and trained the customer service representatives to be able to explain it to those who called Charter Cable.

Prior to the rebuild of the system, customers received 19 channels for \$26.00. After the rebuild, basic service of 28 channels costs \$27.63 per month. Optional Expanded Service adds an additional 50 channels and costs an additional \$21.32 per month.

Council Member Chang noted that the biggest complaint she had received related to the loss of the Discovery Channel and some of the educational channels that are not in the basic service package anymore, and asked if Charter could add some of those programs back to the Basic Service package.

Mr. McGough stated that Charter takes those suggestions seriously, and wants to build a package that has something for everyone. If there is a request for that to be added back it will be looked at. He stated he will make sure that happens.

Mayor Pro Tem Carr asked if the service level audit that is being done will determine what channels of the basic 28 are actually being used by customers, and requested that this information be provided to the Council. He stated that he wants to make sure that customers are receiving channels that they want to watch.

Mr. McGough stated that yes, that can be done, and he will bring that information back to the Council.

Council Member Tate asked how Charter does public surveys to make sure customers want the changes the company is making.

Mr. McGough responded that some of the changes are mandated by the federal government, and other changes are determined by marketing surveys. He stated that it is in the best interests of the company to make sure they have a line up that reflects what the customers want to see. The better the line up the more customer satisfaction, so the company cares very much what the customer thinks.

Council Member Tate stated that he, as a customer, has not been consulted on these changes. Stated that he feels that the company is not communicating the message of caring to the public, and that he gets this feedback a lot.

Mr. McGough thanked him and stated that he will pass this on to his staff.

Mayor Pro Tem Carr requested that Charter Cable work with the City Manager to make sure that the Council gets to review the service level audit, and can have input on why channels are moved and changed.

Mr. McGough reported that last Thursday they had held a focus group and invited a dozen current and past customers and asked them about these issues and to rate service. They felt they received some clear mandates on things the customers would like to see, including more packages and more affordable packages.

In response to Mayor Pro Tem Carr's question regarding Senior pricing, Mr. McGough explained that the policy of Charter towards Senior citizens is the same as other utilities, and their charges are related to their income levels.

Mayor Pro Tem Carr thanked him for coming and stated that he is looking forward to seeing the service level audit.

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Pro Tem Carr opened the floor to comments for items not appearing on this evening's agenda.

Mr. Robert Benich spoke to the Council regarding bus stops in Morgan Hill. He stated that because of the extension of the sales tax for VTA projects, there is money available for cities to apply for projects. He proposed that the City apply for funds for the design and construction of enclosed, all weather bus stops throughout the city. Stated that this is an opportunity to foster rider ship, and construct unique designs that have a consistent theme throughout the city. He urged the Council to apply for these available VTA funds for this upgrade of bus stop project.

Mayor Pro Tem Carr thanked him, and stated that there are some issues to be considered because of VTA requirements for advertising to be displayed at the bus stops. Stated that this is something that should be investigated, and asked the City Manager to do so and determine if this is something that the City should

pursue.

City Manager Tewes stated that he would look into this and report back to the Council.

No further comments offered, public comment was closed.

City Council Action

Action: *On a motion by Council Member Tate, and seconded by Council Member Chang, the City Council **Approved** (3-0), with Mayor Kennedy and Council Member Sellers absent, Agenda Items #2 through #14, and Items #16 through #21, as follows:*

2) **MAY 2002 FINANCE AND INVESTMENT REPORT**

Action: ***Accepted and Filed** Report.*

3) **ANNUAL HOUSEHOLD HAZARDOUS WASTE CONTRACT**

Action: ***Authorized** the City Manager to Execute the Second Amendment to the Agency Agreement for Countywide Household Hazardous Waste Collection Program in the Amount of Up to \$10,000 of City Funds Once the Budget is Adopted.*

4) **RECYCLING CONTAINER PURCHASE**

Action: ***Authorized** the City Manager to Execute the Purchase.*

5) **COMPUTER EQUIPMENT PURCHASE**

Action: ***Authorized** the City Manager to Purchase Computer Equipment and Software in the Amount of \$52,189.39.*

6) **AMEND CONSULTANT AGREEMENT FOR PACIFIC GEOTECHNICAL ENGINEERING AT THE COMMUNITY AND CULTURAL CENTER PROJECT**

Action: ***Amended** Consultant Agreement for Pacific Geotechnical Engineering at the Community and Cultural Center Project.*

7) **APPROVAL OF RIGHT-OF-WAY PURCHASE AGREEMENTS FOR BUTTERFIELD EXTENSION, PHASE IV PROJECT (APN: 817-58-012 AND 817-32-053)**

Action: ***Authorized** the City Manager to Execute Purchase Agreements with the Owners of APNs 817-58-012 and 817-32-053 for Total Compensation of \$22,504 Plus Escrow and Closing Costs for the Acquisition of These Properties.*

8) **APPROVE PURCHASE OF A PORTABLE 150 KW GENERATOR FOR WELL SITES AND BOOSTER STATIONS**

Action: ***Approved** the Purchase of a Model D150P4 CARB/EPA Certified Caterpillar Olympian Diesel Driven Trailer Mounted Generator from Peterson Power System, Inc. for \$39,349.00.*

9) **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9252, SPRING MANOR SUBDIVISION**

Action: **Adopted** Resolution No. 5575, Accepting the Subdivision Improvements Included in Tract 9252, Commonly Known as Spring Manor, and **Directed** City Clerk to File a Notice of Completion with the County Recorder's Office.

10) **ACCEPTANCE OF COMMERCIAL SUBDIVISION IMPROVEMENTS FOR WALGREENS**

Action: **Adopted** Resolution No. 5576, Accepting the Commercial Subdivision Improvements for Walgreens, and **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.

11) **CALL GENERAL ELECTION TO BE HELD ON NOVEMBER 5, 2002**

Action: **Adopted** Resolution No. 5577, Calling Election to be Held on November 5, 2002 to Elect Mayor, and Two City Council Members; and **Adopted** Resolution No. 5578, Requesting the Services of the County of Santa Clara Registrar of Voters and the Consolidation of the Election.

12) **FINAL MAP ACCEPTANCE FOR CENTRAL PARK PHASE V (TRACT 9426)**

Action: **Approved** the Final Map, Subdivision Agreement, and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

13) **REJECTION OF BIDS FOR BOYS RANCH RESERVOIR #3**

Action: **Rejected** the Bids Received on May 2, 2002.

14) **COMMUNITY AND CULTURAL CENTER PROJECT MAY CONSTRUCTION PROGRESS REPORT**

Action: **Information** only.

15) **SETTING OF ANNUAL PUBLIC HEARING FOR FOX HOLLOW-MURPHY SPRINGS LIGHTING AND LANDSCAPE ASSESSMENT DISTRICT**

This item was pulled from the Consent Calendar for later discussion. This was necessary because potential conflict of interest issues for Mayor Kennedy and Council Member Chang on two of the areas under consideration required the presence of at least four Council Members to vote on this item. Mayor Kennedy arrived at 8:45 PM, and assumed the chair for this meeting from Mayor Pro Tem Carr at 9:15 PM, at which time this item was considered. The following actions were taken:

Action: On a motion by Council Member Tate, seconded by Council Member Carr, the City Council **Approved** (4-0) with Council Member Sellers absent, Resolutions 5579, 5580, and 5581, Setting the Annual Public Hearing for the

Fiscal Year 2002-2003 Fox Hollow-Murphy Springs Lighting and Landscaping Assessment District, excluding Conte Gardens and Sandalwood.

Mayor Kennedy stepped down from the dias.

Action: *On a motion by Council Member Tate, seconded by Council Member Carr, the City Council **Approved** (3-0-1) with Mayor Kennedy abstaining, and Council Member Sellers absent, Resolutions 5583, 5584, and 5585, Setting the Annual Public Hearing for the Fiscal Year 2002-2003 Fox Hollow-Murphy Springs Lighting and Landscaping Assessment District, Conte Gardens only.*

Mayor Kennedy returned to the dias, and Council Member Chang stepped down from the dias.

Action: *On a motion by Council Member Tate, seconded by Council Member Carr, the City Council **Approved** (3-0-1) with Council Member Chang abstaining, and Council Member Sellers absent, Resolutions 5586, 5587, and 5588, Setting the Annual Public Hearing for the Fiscal Year 2002-2003 Fox Hollow-Murphy Springs Lighting and Landscaping Assessment District, Sandalwood only.*

This concluded this item, and Council continued with consideration of other agenda items.

16) FISCAL YEAR CONSULTANT AGREEMENT WITH CARL MILEFF & ASSOCIATES, INC. AND NAFFA INTERNATIONAL FOR PLAN CHECKING SERVICES

Action(s): ***Approved** a New Fiscal Year Contract with Carl Mileff & Associates, Inc. for the Amount of \$40,000, 2) **Approved** a New Fiscal Year Contract with Naffa International for the Amount of \$30,000; and 3) **Authorized** the City Manager to Execute the Contracts, Subject to Review by City Attorney.*

17) AWARD OF CONTRACT FOR COSMO/MONTEREY SANITARY SEWER REPLACEMENT PROJECT

Action(s): ***Relieved** the Low Bidder, Due to an Error in the Low Bid, and 2) **Awarded** Contract to Monterey Peninsula Engineering (MPE) for the Construction of the Cosmo/Monterey Sanitary Sewer Replacement Project in the Amount of \$627,910.00.*

18) INVESTMENT POLICY UPDATE

Action(s): ***Reviewed** and **Adopted** Updated Investment Policy for the City, and 2) **Reviewed** and **Adopted** Updated Investment Policy for the Redevelopment Agency.*

19) MITIGATION MONITORING PROGRAM FOR THE CATHOLIC HIGH SCHOOL

Action: ***Approved**, by Minute Action, the Mitigation Monitoring Plan for the Catholic High School*

Project.

20) **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 3, 2002**

21) **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 5, 2002**

City Council and Redevelopment Agency Action

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Chang the City Council/Redevelopment Agency **Approved** (3-0), with Mayor/Chairman Kennedy and Council/Agency Member Sellers absent, Agenda Item #22, as follows:*

22) **APPROVED SPECIAL AND REGULAR CITY COUNCIL MEETING AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JUNE 5, 2002**

Redevelopment Agency Action

Action: *On a motion by Agency Member Tate and seconded by Agency Member Chang the Redevelopment Agency **Approved** (3-0), with Chairman Kennedy and Agency Member Sellers absent, Agenda Item #23, as follows:*

23) **CONTRACT AMENDMENT FOR VBN ARCHITECTS**

Action: ***Authorized** the City Manager to Execute an Amendment to the Approved Contract in the Amount of \$183,525.*

City Council Action

24) **DEVELOPMENT AGREEMENT AMENDMENT DAA 01-06: COCHRANE-COYOTE ESTATES**

Staff report was presented by Director of Community Development Bischoff.

Mr. Dick Oliver presented himself to the Council to answer questions.

Council had no questions.

Public Hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Waived** the Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1566, New*

Series.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** the Development Agreement Amendment (DAA) Ordinance No. 1566, New Series, by title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1523, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT TO INCORPORATE A SIX MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR APPLICATION MP 00-22: COCHRANE - DIVIDEND (APNs 728-42-008, 017; AND 728-43-021.) by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

25) DEVELOPMENT AGREEMENT AMENDMENT DAA 00-05: MALAGUERA-MANCIAS

Director of Community Development Bischoff presented staff report.

Public hearing was opened, but there being no public comment, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Waived** the Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1567, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** the Development Agreement Amendment (DAA) Ordinance No. 1567, New Series, by title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1530, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP 99-26: MALAGUERRA-ANSUINI/MANCIAS TO INCORPORATE A SIX MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION AND REVISIONS TO PARAGRAPH 14 (APN 728-35-016; 728-35-017) by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

26) DEVELOPMENT AGREEMENT AMENDMENT DAA 00-08: BERKSHIRE-SINGH

Director of Community Development Bischoff presented staff report.

Public Hearing was opened, but there being no public comment, the Public Hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Waived** the*

Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1568, New Series.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** the Development Agreement Amendment (DAA) Ordinance No. 1568, New Series, by title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1516, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT AMENDMENT TO INCORPORATE A ONE YEAR EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR APPLICATION MP 00-01: BERKSHIRE-SINGH (APN 764-23-054) by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

27) CONFIRMING THE SANTA CLARA COUNTY FIRE MARSHAL'S REPORT RELATING TO WEED ABATEMENT

City Manager Tewes presented the staff report on this item, stating that this is a public hearing on orders to property owners to clear their property of hazardous vegetation. He stated that this is an important issue for the community because there had already been four brush fires over the last weekend.

Public Hearing was opened, but there being no public comment, the Public Hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Continued** the Public Hearing to July 10, 2002.*

OTHER BUSINESS:

28) EXCEPTION TO LOSS OF BUILDING ALLOCATION, ELBA-02-02:

Community Development Director Bischoff presented the staff report.

Public Hearing was opened, but there being no public comment, the Public Hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Adopted** Resolution No. 5574, Granting An Exception to Loss of Building Allocation.*

29) EXCEPTION TO LOSS OF BUILDING ALLOCATION, ELBA-02-03: EAST DUNNE-GREWAL

This item was taken out of order, and postponed until the arrival of Mayor Kennedy. Hearing began at 9:17 PM. Council Member Chang stepped down from the dais due to a possible conflict of interest at this location.

Community Development Director Bischoff presented the staff report.

Public Hearing was opened, but there being no public comment, the Public Hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council (3-0-1), with Council Member Sellers absent, and Council Member Chang abstaining, **Adopted** Resolution No. 5582, Granting An Exception to Loss of Building Allocation.*

30) REQUEST FROM INDEPENDENCE DAY, INC. (IDI) TO AMEND RECENTLY ADOPTED CITY-IDI CONTRACT

This item was taken out of order, and was heard after Item #23.

Staff report was presented by City Manager Tewes. Reported that this is a request for additional funds to cover increased insurance costs for the Fourth of July celebration.

Mr. Bruce Tichinin, President of Independence Day, Incorporated, spoke in support of this application for additional funds. He invited all citizens to attend, and informed them that they could access information at their website of www.MHIDI.com. Stated that after the events of September 11, 2001, the meaning of this celebration has deepened, but the insurance rates have also increased, requiring them to approach the Council with this request.

Mayor Pro Tem Carr asked what impact this would have on the General Fund, since this item was not budgeted.

City Manager Tewes reported that this funding would come from this year's budget, and that there is a current small positive net operating position of about \$28,000 in the General Fund, which could cover this cost.

Action: *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Amended** City-IDI Contract to add an additional \$6,092.*

31) ADOPTION OF URGENCY ORDINANCE APPROVING AMENDMENT TO CONTRACT WITH CALPERS

City Attorney Leichter presented staff report, and stated that this is an urgency ordinance to assure meeting deadline of July 1, 2002, because it affects retirement of some employees. She further explained that the motion required to accomplish this would be to both introduce and adopt this urgency ordinance.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang the City Council (3-0), with Mayor Kennedy and Council Member Sellers absent, **Waived** the Reading in Full of Urgency Ordinance No. 1565, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** and **Adopted** Urgency Ordinance No. 1565, New Series, by title Only, as follows: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF MORGAN HILL AND THE BOARD OF ADMINISTRATION OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE 3% AT 50 BENEFIT FOR LOCAL POLICE by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

City Council Action and Redevelopment Agency Action

OTHER BUSINESS:

32) ADOPT ORDINANCE NO. 1563, NEW SERIES

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Chang the City Council (3-0), with Mayor/Chairman Kennedy and Council/Agency Member Sellers absent, **Adopted** Ordinance No. 1563, New Series, by title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT CHANGING THE ZONING FROM SERVICE COMMERCIAL (CS) AND ADMINISTRATIVE OFFICE (CO) TO PLANNED UNIT DEVELOPMENT (PUD) AND TO ESTABLISH A PRECISE DEVELOPMENT PLAN FOR THE SITE. (APN 817-02-03, 04, 05, 022, 023, & 038) by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.*

33) ADOPT ORDINANCE 1564, NEW SERIES

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Chang the City Council (3-0), with Mayor/Chairman Kennedy and Council/Agency Member Sellers absent, **Adopted** Ordinance No. 1564, New Series, by title Only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING OF DEVELOPMENT AGREEMENT APPLICATION DA 02-01 FOR APPLICATION MP*

00-31: CHURCH - SOUTH COUNTY HOUSING (APNs 817-02-03, 04, 05, 022, 023, & 038) by the following roll call vote: AYES: Carr, Chang, Tate; NOES: None; ABSTAIN: None; ABSENT: Kennedy, Sellers.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

3.

CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY NEGOTIATOR

Legal Authority: Government Code 54956.8

Real Property Involved: APNs 773-06-008 & 009, 905 West Main Avenue, 24.54 acres

Negotiating Parties:

For City/Agency: City Manager/Executive Director; City Attorney/Agency Counsel; Director of Business Assistance & Housing Services

For Property Owners: Virginia Acton 1993 Trust

Closed Session Topic: Acquisition of Real Property

4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)

Name of Cases (3) : Santa Teresa Citizen Action Group et al. v. Environmental Appeals

Case No/Court (3) : Board of the United States EPA; Santa Teresa Citizens Action Group et al. v. California Energy Commission; Santa Teresa Citizens Action Group et al. v. California Energy Commission; Ninth Circuit Court of Appeals, No. 01-71611; Sacramento County Superior Court Civil No. 01 CS 01830; California Supreme Court Case No. S 103019

Attendees: City Manager; City Attorney; Stephan Volker, Special Counsel.

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Pro Tem Carr opened the closed session items to public comment.

No comments being offered, Mayor Pro Tem Carr closed public comment.

ADJOURN TO CLOSED SESSION

Mayor Pro Tem Carr adjourned the meeting to closed session at 8:07 p.m.

RECONVENE

Mayor Pro Tem Carr reconvened the meeting at 8:35 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced there were 4 items for closed session. Anticipated Litigation included an item contained in an e-mail dated 8/1/01 from the Allivatos to Council Member Chang. No reportable actions.

Redevelopment Agency Action

OTHER BUSINESS:

34) MORGAN HILL CHAMBER OF COMMERCE MARKETING PLAN

Director of Business Assistance and Housing Services Toy presented staff report.

Mr. Alex Kennett, President of the Morgan Hill Chamber of Commerce (COC), and Economic Development Commission (EDC), presented a Power Point presentation to the Agency informing them of the plans that the Chamber and the EDC have put together to promote the economic and tourist industries in Morgan Hill.

Agency Member Chang stated that they had presented wonderful ideas, and she is glad they are doing this, but wanted to know if the plan includes a specified direction for economic development, and who decides

this direction. She inquired if there was a provision for discussion between the City Council and the COC about economic development.

Mr. Kennett stated that the Visioning Process of the City of Morgan Hill will be used as the basis for the Economic Development Plan. This would follow the vision and philosophy already developed by the City in the General Plan. This would be the philosophical basis on which they would move forward to identify the type of development to attract to Morgan Hill. This would also involve the reorganization of the Economic Development Committee as they know it, to involve everyone in the process.

Agency Member Chang stated that the General Plan is vague on economic development; for example, it does not have a statement on what we would want for an auto mall.

Mr. Kennett responded that the hiring of the public relations firm helps them to ask the questions on how the City will grow and be developed economically, and a work plan will be developed which will be the basis for the contract with the City. They will be hiring an individual to help them design the economic development plan, and their first job will be to clarify the direction the City is going, then report back to the Council. The work really begins once this is in place. A work plan can be developed, and then they can come back to the Council, probably in January, with their results.

Mayor Pro Tem Carr opened the Public Hearing.

Ms. Laura Brunton spoke in favor of this item. She stated that she sits on the Economic Development Committee, and that there are two strong committees in the Chamber of Commerce in economic development and tourism. These two groups, combined with the membership of the COC, will help this plan to move forward.

Mr. David Peters asked the Agency to consider two questions. What other precedents exist for municipalities funding this type of work under the Chamber of Commerce guidance? And what are the quantifiable, measurable deliverables (i.e., how much business to attract and how to measure the progress toward the goals)? Stated that there needs to be measurable goals when using tax payer funds, and that he was also curious about the business incubator study.

There being no further public comment, the public hearing was closed.

Agency Member Tate stated that he had been assigned to be the Council liaison to the Chamber of Commerce in getting this plan developed, and that although he started out skeptical, he has come to be enthusiastic and to see the benefit to be gained from it. This is slated to be a marketing plan, and not a long range visioning plan, adopting the City's Vision. Because of the vacancy rate in the community, it is apparent that we do have immediate needs, and need to make a strong economic statement soon. He is convinced that this is the way to go about it. There have been a lot of people involved in the economic development and tourism discussion to make sure that all facets of the community were represented. There is a lot of enthusiasm in the Chamber of Commerce and a lot of people who want to get this going. This is a good way to get more community involvement and help without having to hire more city employees. His one concern is the five year contract, but wants to make sure that there are measurable goals so that it

can be monitored as we go to make sure it is going in the right direction over the 5 year period.

Agency Member Chang asked if the goal of the marketing plan is to develop a plan to fill empty spaces for businesses. Will the marketing plan attempt to build business parks, big box places, or tourism?

Agency Member Tate stated that a lot of the types of marketing they will do is to hold the businesses we already have and get new ones in as well. The focus will be on Morgan Hill as a great place to do business and to visit. The Council/Agency can help control the direction by the policy they set. The COC is trying to be in sync with the direction of the City and to help this happen much quicker, and to bring resources to bear that would not otherwise be brought to bear.

Agency Member Chang asked if it would not be the responsibility of the owners of the business parks to lower rent and promote their own facilities, rather than the City's job to do the promoting. She stated that rents in San Jose are lower than in Morgan Hill, and tenants will go where rents are cheaper and won't come here no matter how good the marketing plan is. She emphasized that this issue has to be dealt with by property owners.

Agency Member Tate stated that business park owners are intimately involved with this plan, and are motivated to make it work.

Agency Member Carr stated that he recognized that a lot of work had gone into this project, and he liked the idea of a partnership, but he still had questions about economic development. Before he can move forward on this decision, he wants to make sure he understands what it is that a company looks for when deciding to relocate somewhere. He recommended that the Council receive this presentation tonight, and that staff review it and bring it back to the Agency Board for their decision when all five members are present. This is an important decision that will set the direction for an important part of the community for a long time to come, and it needs to be decided by a full board.

Agency Member Tate concurred that the Board should follow the staff recommendations for this item.

Agency Member Chang stated that she liked the concept, but her main question was about our direction. Stated that perhaps business park owners should also contribute to the project, since they will benefit from it.

Agency Director Tewes stated he will research Board Member questions, analyze the report, the legal issues of the contract and the relationship with the City, and the funding issues and will report back to the Board.

Chairman Kennedy agreed with comments that had been made. Stated he believed we need a partnership of some sort, and feels that this is a well thought out plan to put such a partnership in place. Asked the staff to take a look at the proposal and come back with their perspectives on the issues before the Board makes a final decision on where to go from here. Stated he supports the actions suggested, and thanked the Chamber of Commerce for the hard work they have put into this plan.

Action: *The Redevelopment Agency* 1) **Received** Presentation on the Morgan Hill Chamber of

Commerce Marketing Plan; 2) **Provided** Staff with Comments on the Plan; and 3) **Directed** Staff to Report Back Within 3 Weeks with a Recommendation.

ADJOURN TO CLOSED SESSION

Mayor Kennedy adjourned the meeting again to closed session at 9:20 p.m.

RECONVENE

Mayor Kennedy reconvened the meeting at 9:40 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced no reportable actions.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

None.

ADJOURNMENT

Mayor/Chairman Kennedy adjourned the meeting at 9:41 p.m.

MINUTES RECORDED AND PREPARED BY

MOIRA MALONE, DEPUTY CITY CLERK